

**NOTICE FOR PUBLIC COMMENT**  
**Proposed Amendments and Reorganization of the**  
**Massachusetts Appeals Court Rules for the Regulation of Appellate Practice**  
**and the Standing Orders of the Appeals Court**

General Laws c. 211A, § 13, authorizes the Appeals Court, subject to the approval of the Supreme Judicial Court, to adopt rules regulating the "practices, procedures and internal administration of the appeals court." The Appeals Court invites public comments on the proposed revisions and amendments to, the Massachusetts Appeals Court Rules for the Regulation of Appellate Practice and to the Standing Orders of the Appeals Court.

The Appeals Court proposes to update, reorganize, and retitle its rules, standing orders, and long-standing policy on the filing of motions for enlargements of brief due dates, into a single set of rules entitled the "Appeals Court Rules." The number and content of each "Appeals Court Rule" will correspond to its counterpart in the Massachusetts Rules of Appellate Procedure. This streamlined organizational structure will create an efficient system for the public and the court to search and cite to the specific rules of the Appeals Court. Such an organizational structure would be similar to that used by the First Circuit and other courts.

The Appeals Court welcomes all comments on the proposed amendments. Comments should be directed to Joseph Stanton, Clerk, Massachusetts Appeals Court, One Pemberton Square, Boston, MA 02108, or to [joseph.stanton@appct.state.ma.us](mailto:joseph.stanton@appct.state.ma.us), on or before June 26, 2015. The comments received will be made available to the public.

The Appeals Court proposes the following:

1. The title of "Massachusetts Appeals Court Rules for the Regulation of Appellate Practice" be amended to the "Massachusetts Appeals Court Rules."
2. Appeals Court Rule 2:01, "*Practice Before A Single Justice*," is relevant to Mass.R.A.P. 1(b), "*Scope of Rules: Definition; Rules Not Affect Jurisdiction*" and also to Mass.R.A.P. 15(c), "*Powers of Single Justice to Entertain Motions*." Given the breadth of Rule 2:01, it is more related to Mass.R.A.P. 1(b) than 15(c). The Appeals Court proposes that Rule 2:01 be repealed and its text be adopted as a rule and retitled as "Appeals Court Rule 1(b), "*Practice Before A Single Justice*."
3. The current "*Standing Order Concerning Motions to Stay a Judgment or Execution of Sentence Pursuant to Mass.R.A.P. 6*" be adopted as a rule and retitled as "Appeals Court Rule 6: Procedure Governing Motions Filed Pursuant to Mass.R.A.P. 6."
4. The current "*Standing Order Adopting Pilot Program Requiring Appellants to File Docketing Statements in Civil Cases*" be adopted as a rule and retitled as "Appeals Court Rule 10(a)(1): Civil Docketing Statement."

5. The current "*Standing Order Adopting Pilot Program Requiring Appellants to File Docketing Statements in Criminal Cases*" be adopted as a rule and retitled as "Appeals Court Rule 10(a)(2): Criminal Docketing Statement."

6. The court's policy on the filing of motions for enlargements of brief due dates is relevant to Mass.R.A.P. 14(b). The court adopted the policy in 1998, and published it in *Lawyers Weekly*. See also *Lawrence Sav. Bank v. Garabedian*, 49 Mass. App. Ct. 157, 161 n.14 (2000). To make the policy more easily accessible to the public, the court proposes that the policy be adopted as a rule and titled as "Appeals Court Rule 14(b): Enlargements of Brief Filings," stating the policy as previously published:

Excluding civil child welfare cases, it shall be the policy of the Appeals Court, implemented through the clerk's office and the single justice, with respect to motions to enlarge the time for filing briefs prescribed by Mass.R.A.P. 19(a), to grant no more than one motion for enlargement of time per side, the enlargement being sought not to exceed 120 days, and then only on the basis of an affidavit of counsel setting forth (a) good cause to warrant the requested enlargement and (b) an explanation why the particular time period requested is reasonable. Further enlargements of time will ordinarily not be granted absent genuine emergency such as a death, illness or serious injury.

7. The current "*Standing Order Requiring the Electronic Filing of All Motions and Letters Filed After Panel Assignment*" be adopted as a rule and retitled as "Appeals Court Rule 15(a): Filing of All Motions and Letters After Panel Assignment."

8. Appeals Court Rule 2:02, "*Review Under Rule 15(c) of the Massachusetts Rules of Appellate Procedure*," is directly relevant to Mass.R.A.P. 15(c). The Court proposes that Appeals Court Rule 2:02 be repealed and its text be adopted as a rule and retitled as "Appeals Court Rule 15(c): Review Under Rule 15(c) of the Massachusetts Rules of Appellate Procedure."

9. The current "*Standing Order Concerning Dismissal of Appeals and Reports in all Cases for Lack of Prosecution*" be adopted as a rule and retitled as "Appeals Court Rule 19(c): Dismissals of Appeals and Reports in all Cases for Lack of Prosecution."

10. Appeals Court Rule 1:26, "*Sittings for Hearing Questions of Law*," is directly relevant to Mass.R.A.P. 22, Oral Argument. The Court proposes that Appeals Court Rule 1:26 be repealed and its text be adopted as a rule and retitled as "Appeals Court Rule 22, Oral Argument." In addition, the court proposes that the rule be amended to make it consistent with current practice by eliminating the reference to sittings "on the second and third Mondays of" and to add "in September," and "June". As amended, the proposed rule would state:

Sittings of this court pursuant to G. L. c. 211A, s 4, shall be held at Boston ~~on the second and third Mondays of in September~~, October, November, December, January, February, March, April, ~~and~~ May, and June, and at such other places or times as the chief justice of this court from time to time may order.

11. Appeals Court Rule 1:28, "*Summary Disposition*," is directly relevant to Mass.R.A.P. 23, Issuance of Rescript; Stay of Rescript. The Court proposes that the Appeals Court repeal Appeals Court Rule 1:28 and its text be adopted as a rule and retitled as "Appeals Court Rule 23: Summary Disposition (formerly known as Appeals Court Rule 1:28)." The court proposes to include the "formerly known as Appeals Court Rule 1:28" in the title of the rule because of Rule 1:28's historic significance to the Appeals Court, and its citation in case law.

12. The current "*Standing Order Governing Petitions to the Single Justice Pursuant to G. L. c. 231, sec. 118 (First Paragraph)*," is relevant to Mass.R.A.P. 20(b), Form of Other Papers. The Court proposes that the standing order be repealed and its text be adopted as a rule and retitled as "Appeals Court Rule 20(b), Form of Petitions to the Single Justice Pursuant to G. L. c. 231, sec. 118 (First Paragraph)."

13. The current "*Standing Order Governing Electronic Notification of Court Orders, Notices, and Decisions in Lieu of Paper Notice*" be adopted as a rule and retitled as "Appeals Court Rule 31(c): Procedure Governing Electronic Notification of Court Orders, Notices, and Decisions in Lieu of Paper Notice."

14. Appeals Court Rule 2:03, "*Special Masters and Commissioners*," is directly relevant to Mass.R.A.P. 24, Justices' Participation. The Court proposes this rule be repealed because it is unused. Current Appeals Court Rule 2:03 states:

A majority of the justices of this court may designate special masters and commissioners to deal with specified cases or with such matters as may be referred to them by a written order of a single justice or of a panel of the justices. The acts of such special master and commissioner, when confirmed or approved by a single justice or by a panel of the justices, as the case may be, shall have all the force and effect of a decision by a single justice or by a panel of the justices.

15. The current "*Standing Order of the Appeals Court Concerning Conferences in Civil Appeals*" is directly relevant to Mass.R.A.P. 21, Prehearing Conference. However, the Appeals Court terminated the conference program in 2002 for budgetary reasons. The continued existence of the standing order in the Massachusetts Rules of Court leads to inquiries from attorneys and parties about how they can participate in a program that does not exist. The Court proposes that this standing order be repealed to avoid any confusion it generates. If funds become available to reinstate the conference program, a new and modern standing order can be adopted.